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**Combating Religious Persecution Abroad:
A Proposal for Congressional Action**

By J. Jeremy Marsh
For Senator John Ashcroft
9 May 1997

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EXECUTIVE SUMMARY

Religious persecution abroad, defined as the denial of any of the rights of religious freedom, became one of the leading human rights issues in American politics in 1996. Stephen Rosenfeld of the Washington Post called it "the most intriguing early foreign policy development of 1996" and said that the effort would save lives.¹ Those in agreement with him responded to evidence of growing persecution in some countries by petitioning government to make the reduction of such persecution a priority in its foreign policy. These efforts led to the formation of a Special Advisory Committee to the President and Secretary of State on Religious Freedom Abroad. Many, however, believe that the U.S. government must do more to combat widespread persecution in countries where Communist or radical Islamic forces are dominant. Indeed, it seems the problem calls for more than a State Department commission which will examine religious freedom. It calls for policy initiatives that will act to expose and reduce persecution of religious minorities where it is most destructive.

Policy Options

- a. **RHETORIC:** Make the issue of religious persecution abroad a priority in the conduct of country-specific and multilateral diplomacy.
- b. **HELP THE VICTIMS:** Make the U.S. Immigration and Naturalization Service more responsive to victims of religious persecution.
- c. **PUNISH THE PERPETRATORS:** Adopt trade and aid sanctions against foreign governments that engage in systematic persecution of religious minorities.

Criteria

- a. Is the option politically feasible? Could possible legislation gain votes in Congress and the support of the President?
- b. Will the option significantly reduce persecution in the areas targeted?
- c. How will the option affect other American foreign policy goals?
- d. How much will the option cost the United States?

Recommendation

The U.S. government should concentrate its efforts on actions which will raise awareness of religious persecution and act to stop it. Government officials should speak out for persecuted persons and groups when conducting bilateral and multilateral diplomacy. The State Department's Country Reports on Human Rights should be improved in this area in order to better expose and address religious persecution. The United States should pursue economic sanctions where appropriate, with the recommended means being withdrawal of U.S. aid and a mandatory no vote in multilateral development organizations. Finally, the U.S. Immigration and Naturalization Service should adopt procedures which ensure that requests for asylum on the basis of religious persecution are dealt with using a process that is as fair and transparent as possible.

¹ Stephen Rosenfeld, "Human Rights for Christians Too," The Washington Post, February 9, 1996, p. A21.

*"The idea of democracy, and indeed the practice, albeit often in a flawed manner, is spreading as never before. Pressure for human rights discomfits oppressors, encourages their victims, and, in the long run, makes the world safer. Apply it."*²

The Economist, April 12, 1997

INTRODUCTION

General Policy Area

A prominent member of the Carter Administration asked, 20 years ago, "since when is religion a human right?"³ Whether religion is a human right or not is no longer a question today. International law, the U.S. Constitution⁴, U.S. Government officials, and public opinion all recognize the importance of religious freedom, the ability to practice one's faith without fear of persecution.⁵ Thus, when we hear reports concerning the persecution of Christians in Sudan, of Tibetan Buddhists in China, of Bahais in Iran, or of Kurds in Iraq, we, a nation founded upon the institutionalization of religious freedom, are inspired to take action.

Specific Question

The general question is, what kind of action should the United States take? More specifically, what should the 105th Congress and particularly Senator John Ashcroft do to address religious persecution abroad?

² "A Suitable Target for Foreign Policy?" *The Economist*, April 12, 1997, p. 16.

³ Interview with Richard Cizik, Policy Analyst for the National Association of Evangelicals, Washington D.C., February 21, 1997.

⁴ See U.N. Declaration of Human Rights, Art. 18, and U.S. Constitution, amend. 1, sec. 1

⁵ Religious freedom is hereafter a reference to freedom from religious persecution.

Justification

The United States should use its considerable power and prestige to address this problem not only because a respect for religious freedom is embedded in our historical conscience, but also because to turn its back on the violent acts of persecution being suffered by religious minorities abroad would be reprehensible and immoral. As the National Association of Evangelical's (NAE) Statement of Conscience⁶ claimed,

If governments are to be worthy of the name, or responsive to their national interests and the interest of their people, lessons of history mandate uncompromising hostility to religious persecution. If, though it is true, the United States Government cannot end all evil throughout the world, it can nonetheless adopt policies that would limit religious persecution and ensure greater fulfillment of inalienable and internationally recognized rights to freedom of religious belief and practice.⁷

Apart from the moral imperative to stand up for those who are being persecuted, it is in the United States' best interest to support religious freedom abroad. Because religious freedom is one of the most fundamental human freedoms, support for religious freedom is consistent with our government's long-standing desire to build democracy. Furthermore, as Secretary of State Madeleine Albright recently said, "people who are free to develop their beliefs live by them and in their sharing, enrich a society."⁸

Description of Approach

Since this is a relatively new policy area, the methodological approach was centered around interviews, recent news articles and publications, historical precedents, and attendance at conferences, including the first meeting of the State Department Advisory Committee on Religious Freedom Abroad. Those interviewed included: Michael Horowitz and Richard Cizik, the drafters of the NAE's Statement of Conscience, which was the mechanism that propelled this

⁶ See Appendix 1 for the full Statement.

⁷ Statement of Conscience, National Association of Evangelicals, January 1996, p. 2.

issue into the limelight; Nina Shea, who was to be the President's Special Advisor on Religious Persecution before the White House decided not to appoint an advisor and who now sits on the State Department Advisory Committee; numerous congressional staffers, including John Hanford, of Senator Lugar's office and Willy Inboden, who was formerly with Senator Nunn, both of whom have been working behind the scenes on this issue for years; Grover Joseph Rees, Staff Director for the House Subcommittee for International Operations and Human Rights; and Taunya McLarty, an international trade specialist with Senator Ashcroft.

The State Department Human Rights reports as well as reports and books from other human rights and religious organizations, including Nina Shea's In the Lions Den, and Paul Marshall's Their Blood Cries Out provided information on the location and extent of religious persecution abroad. Finally, international and U.S. public law contained information concerning the precedents that have been set for international, congressional and executive action in foreign countries with significant human rights abuses.

Limitations of the Research

The chief limitation of this research is that it is impossible to get a comprehensive understanding of the exact nature of worldwide religious persecution and where it exists. Most of the information that is available is anecdotal, detailing specific instances of persecution but not providing a good idea of the overall picture, including whether or not and to what degree the persecution is systematic. The State Department Human Rights reports, for example, are not very detailed in this area and do a poor job of distinguishing between different religious minorities and different types of persecution when assessing religious freedom. Further, there is a need within policy circles to develop a more nuanced definition of persecution, accounting for the fact that

⁸ Madeleine Albright, Statement before Advisory Committee, U.S. State Department, February 13, 1997.

some persecution is legal or economic in nature whereas other forms involve martyrdom, torture, imprisonment, or forced exile. Finally, this is a relatively new policy area, making the number of experts and the number of people who have examined policy solutions to the problem fairly scarce. If these individuals, with the help of the U.S. government, can begin to address the limitations of this research through better intelligence gathering, the proper policy responses will become much more clear.

Recommendation

Due to the limitations mentioned above, U.S. policy should be focused on using all resources available to gather more intelligence about this problem. In the meantime, elected and appointed officials should use their voice to bring instances of known persecution to light when carrying out country-specific and multilateral relations with foreign governments. The United States should concentrate its efforts on developing consensus against persecution in international fora like the United Nations. The United States' goal should be to get as many countries as possible to recognize problems and then to work with them in solving them, starting with the cases where multilateral efforts are most likely to succeed.

BACKGROUND

Extent and Nature of Religious Persecution

Perhaps the two most underreported international stories of the last decade are the exponential growth of religion throughout the world and the paralleling increase of religious persecution, according to Brian O'Connell of News Network International.⁹ For example, in 1960, the highly regarded Operation World database reported that 70 percent of evangelical

⁹ Brian F. O'Connell, "Growth and Persecution: Two Sides of the Same Coin" World Perspectives, June 2, 1995., p. 1.

Christians lived in North America and the West; now over 70 percent of these individuals live outside the west, in countries like China, Sudan, Vietnam, Indonesia, and Pakistan. Because of such growth and the fears that it engenders in both Communist and Islamic countries, many religious groups are experiencing heightened discrimination, harassment, and persecution.

David Barrett¹⁰ reported several years ago that more people have been martyred for their faith in this century than in the previous nineteen centuries combined.¹¹ According to him, 159,000 Christians were martyred for their faith in 1996. His definition of a martyr is, a "believer who loses his or her life prematurely, in a situation of witness, and as a result of human hostility."¹² During the Cold War, Barrett's figure of 300,000 Christian martyrs per year was widely used.¹³ He admits that the estimates he makes involve some delicate distinctions and carefully controlled guesswork. Indeed, some think that his facts may be skewed by outliers like Sudan, where Christian martyrdom is a regular occurrence. However, keeping in mind that Barrett only counts Christian martyrs, one can be fairly certain that in actuality there are many more than 159,000 people who died for their faith last year.

Paul Marshall, author of a new book on worldwide religious persecution entitled Their Blood Cries Out and a philosophy professor at the Free University of Amsterdam, wrote that "currently, two hundred to two hundred fifty million Christians are persecuted for their faith and a

¹⁰ Barrett is believed to be the top number cruncher in the field of world religion. He publishes an annual summary in the International Bulletin of Missionary Research and edits relevant sections of the Britannica Book of the Year and Britannica World Data.

¹¹ Richard Neuhaus, "On Public Life," First Things, February 1997, p. 59.

¹² Ibid.

¹³ Even though he publishes annual reports counting all of the world religions, Barrett limits his research on martyrdom to Christians. According to him, each of the following world religions have given him estimates of the aggregate number of martyrs within each since the origin of the religion: Islam, 70 million; Hindu, 11 million; Judaism, 9 million; Buddhism, 4 million; Sikhs, 2 million; Bahais, 1 million.

further 400 million live under non-trivial restrictions of religious liberty.”¹⁴ His definition of religious persecution is, “the denial of any of the rights of religious freedom” and his term “non-trivial restrictions” refers to situations where people have a basic freedom of worship, but where the law places them at a consistent civil and economic disadvantage for exercising such freedoms.¹⁵ Examples of non-trivial restrictions of religious liberty include: Israel, where Orthodox religious authorities have exclusive control over marriage, divorce, and burial of all Jews regardless of the individual’s orthodoxy; Iran, where Bahais are legally restricted in their educational and employment opportunities¹⁶; Egypt, where Coptic Christians often have to wait years to get approval from the President of Egypt to fix a broken toilet in their church building, facing heavy fines if they do so without permission.¹⁷

The greatest sources of religious persecution in this century have been the Soviet Union, Nazi Germany, and Communist China. Much of the persecution cited by religious leaders now arises in the remaining Communist regimes or in countries under militant Islamic governments. China and Vietnam bar religious activity outside government-controlled agencies, a policy leading to the imprisonment or, in some cases, death of ministers organizing the house church movement and the rejection of Catholic bishops appointed by the Vatican. Saudi Arabia prohibits non-Muslim services and, like other nations following Islamic law, prescribes death for those who convert to Christianity. Child slavery of Christians in Sudan, imprisonment and torture of

¹⁴ Paul Marshall, *Their Blood Cries Out* (Dallas: Word Publishing, 1997), p. 255. Like Barrett, Marshall focuses primarily on the persecution of Christians. He acknowledges similar persecution of other religious minorities but says that “Because Christians are spread throughout the world in many thousand different ethnic and cultural groups, their suffering provides a touchstone for how regimes treat human rights in general. In country after country, region after region, town after town, the persecution of Christians is a harbinger of the repression of other human rights—of political dissidents, of intellectuals, of unionists, of women, of children, of homosexuals.” Page 11.

¹⁵ *Ibid.*, pp. 248-49.

¹⁶ Steven J. Coffey, U.S. Congress, Senate, Near East and South Asia Subcommittee, *Hearing on Religious Freedom in the Middle East*, 105th Cong., 1st sess., May 1, 1997.

Christian converts in Egypt, kidnappings and torture in Iran, and military assaults on churches in Laos and Indonesia are further examples of the extent of persecutions suffered by Christians abroad.¹⁸ Specific examples of persecution in countries where abuse of this sacred human right is most egregious can be found in appendix two.

Religious Freedom as a Human Right

John P. Humphrey, the principal writer of the U.N. Universal Declaration of Human Rights, wrote that the "Freedom of religion is indeed the oldest of the international recognized human freedoms."¹⁹ Although this phrase does not appear in the Declaration, the freedom of religion is embedded in articles II and XVIII of it. The United States recognized this human right when it began its Bill of Rights with the freedom of religion. Evidence of the U.S. framers intention to protect the freedom of religion can be found in the following quote by Thomas Jefferson: "all men shall be free to profess, and by argument to maintain, their opinion on matters of religion, and that same shall in no wise . . . affect their civil capacities."²⁰ Today, religion is still the core of existence for most human beings. It sustains their lives, shapes their ethics, animates their dreams, provides their hopes and comforts their sufferings. "Throughout the world, religion is interwoven with human life and human rights."²¹ Yet, the U.S. government has often found it too easy to ignore the denial of this and other human rights in foreign countries.

Human Rights organizations lament the fact that in the Clinton Administration, human rights have often taken a back seat to economic goals. In its most recent annual report, Human Rights Watch claimed that "the major powers settled far too often in 1996 for the facade of a

¹⁷ Marshall, Blood, p. 38.

¹⁸ Examples are taken from Nina Shea, In the Lion's Den, (Anderson, Indiana: Bristol House, 1996)

¹⁹ Quoted in Marshall, Blood, p. 200.

²⁰ Quoted in U.S. President, Proclamation, "Religious Freedom Day," Federal Register, vol. 57, no. 6514, 9 December 1992.

human rights policy rather than a genuine effort to promote human rights.”²² In 1997, the U.S. government has increased its rhetorical position and applied sanctions against some human rights violators, like Burma, but overall has accomplished little of a substantive nature. Vice President Al Gore hardly even touched on human rights during his trip to China. Furthermore, the United States did little to prevent China from successfully blocking any debate of its human rights record in the U.N. Human Rights Commission or from persuading U.S. allies to tone down their criticism of Beijing. Nevertheless, the President, First Lady, and Secretary of State have all emphasized the importance of elevating human rights generally, and religious freedom specifically, in the conduct of U.S. foreign policy. Albright said in January, “Whatever your culture, whatever your creed, the right to worship is basic. Broadening the recognition of that right and placing the spotlight on its denial will be a priority of our human rights policy.”²³

With the passage of the Jackson-Vanik amendment in 1974²⁴, human rights and particularly freedom of religion began to play a greater role in American foreign policy. Our country, however, has been silent in recent years about gross persecution of religious minorities, especially in countries where the United States has important economic or geopolitical interests. This is starting to change, however, as evidenced by State Department Human Rights reports that did not hesitate to criticize such countries for their human rights abuses. One fact that must not be ignored either in this country or in international fora is that these guilty nations are violating numerous international agreements and declarations, such as the UN Universal Declaration of Human Rights.²⁵

²¹ Marshall, Blood, p. 201.

²² Human Rights Watch World Report, 1997: Events of 1996, (Washington D.C.: HRW, 1997), p. xiii.

²³ Albright, Press Briefing, U.S. State Department, January 30, 1997.

²⁴ Trade Act of 1974, sec. 402.

²⁵ Portions of the UN Declaration and other agreements can be found in Appendix 3.

Opening of the Policy Window

On January 23, 1996, over 100 religious leaders met in Washington for a Conference on Global Christian Persecution organized by the Puebla Institute. Six days prior to the conference, Don Argue, the president of the National Association of Evangelicals (NAE) along with Richard Cizik, senior policy analyst for NAE, went to the White House to invite the President to speak at NAE's annual meeting, which the President initially agreed to do. During the meeting, Argue also told the President about the conference and informed him about an important Statement of Conscience that was to be released then. When the Statement was published, the White House was upset to find that it recommended major new administration initiatives, including the appointment of a Special Advisor to the President as well as recommendations for reform within the State Department and the Immigration and Naturalization Service (INS). Two things happened as a result of the Statement's issuance. First, the President decided not to go ahead with his original plan of appointing a Special White House Advisor on Religious Persecution. Second, the issue began to pick up momentum elsewhere, spurring a good amount of press²⁶ as well as Congressional action.

Congressional Action

Congressional action following the January conference strongly emphasized the need for a Special Advisor to the President on Religious Persecution. Here is a summary of Congressional

²⁶ See the following articles for press response: "Evangelicals Ask Government to Fight Persecution of Christians," New York Times, 23 January 1996; "U.S. Urged to Fight Religious Persecution," LA Times, 27 January 1996; "Human Rights for Christians Too," Washington Post, 9 February 1996; "The State Departments Decision to Establish a Panel ... Raises Questions of Insincerity," New York Times, 16 November 1996; "Christian Persecution: A Silent Administration," Washington Times, 9 December 1996; "Christians Have Reason to Fear," Boston Globe, 24 December 1996; "Christians Without a Prayer," Wall Street Journal, 24 December 1996; "Persecuting the Christians," New York Times, 11 February 1997; "Questions Unasked," New York Times, 14 February 1997.

initiatives which took place during the 104th Congress.²⁷

Table 1: Congressional Involvement on Religious Persecution, 104th Congress

15 FEB 96	The House Subcommittee on International Operations and Human Rights held a hearing on the persecution of Christians worldwide. The hearing included 11 witnesses.
22 APR 96	Congressmen Christopher Smith, John Porter, and Frank Wolf sent a letter to the President urging him to present a major statement condemning religious persecution and to appoint a Special Advisor to the President on Religious Persecution.
26 JUN 96	House Concurrent Resolution 102, sponsored by Congressman Porter was agreed to. This resolution condemned the government of Iran's religious persecution of the Bahai community, Iran's largest religious minority.
26 JUL 96	Sen. Specter introduced S. RES 283, which Sen. Helms and Faircloth cosponsored, calling upon the President to appoint to the White House a Special Advisor on Religious Persecution. It did not pass.
17 SEP 96	SCONRES 71, introduced by Sen. Nickles and cosponsored by Senators Nunn, Ashcroft, Helms, and Coats condemning the persecution of Christians worldwide, passed by unanimous consent. The resolution called on the President to expand U.S. advocacy for persecuted Christians and to appoint "as expeditiously as possible" a White House Special Advisor on Religious Persecution.
24 SEP 96	HRES 515, sponsored by Congressman Wolf, condemning the persecution of Christians worldwide and also calling upon the President to appoint either a White House Special Advisor or an advisory committee, passed the House.

The only official action during the 105th Congress on this issue so far was a hearing on religious freedom in the Middle East that took place on May 1, 1997 in the Senate Near East and South Asia Subcommittee of the Senate Foreign Relations Committee.

The Administration's Response

On November 12, 1996, the White House announced the formation of an Advisory Committee on Religious Freedom Abroad, composed of 20 American religious leaders and scholars and chaired by Assistant Secretary of State, John Shattuck, of the Bureau of Democracy, Human Rights, and Labor. According to Shattuck, the goals of the committee are to provide information about religious persecution to the government and to foster dialogue between

²⁷ See Appendix 4 for text of S.Con.Res. 71.

religious groups and the government about Washington's efforts on behalf of persecuted believers.²⁸ The Committee will meet two or three times a year for two years, and, according to Shattuck, will not be "action oriented."

The administration argued that this panel was a better way to address the problem than the appointment of a special advisor because the panel will allow for continuous monitoring of suspected persecutions, avoid partisan appointments, hear all sides, and work with private advocates. It also argued that placing it in the State Department was the only realistic way to give it clout and a budget. Finally, the administration claims that it delayed the announcement of the panel until after the election in order to avoid the perception that this was merely a political maneuver designed to curry favor with people of faith.

In addition to forming the Committee, the administration has begun to elevate the issue in its procedures and in its dealings with foreign countries. For example, in December of 1996, the State Department instructed all U.S. embassies around the world to be alert to the high priority the United States attaches to religious freedom.²⁹ President Clinton declared January 16, 1997 Religious Freedom Day.³⁰ At a meeting of the U.N. Human Rights Commission in April of 1997, the United States cosponsored a resolution on religious intolerance and delivered a strong statement on religious freedom. Also, the United States was instrumental in the creation of a Human Rights Commission Special Rapporteur for Religious Freedom. Finally, the State Department will present a report on the persecution of Christians abroad to Congress later this

²⁸ John Shattuck, Press Briefing, U.S. State Department, 12 November 1996.

²⁹ Steven J. Coffey, U.S. Congress, Senate, Near East and South Asia Subcommittee, Hearing on Religious Freedom in the Middle East, 105th Cong., 1st sess., May 1, 1997.

³⁰ U.S. President. Proclamation. "Religious Freedom Day." Federal Register vol. 62, no. 6966, 16 January 1997, p. 3191.

year, which will be distributed to officers of the INS so that those who seek refuge on the grounds of religious persecution can have their claims considered more fairly.³¹

Highlights of the first meeting of the Advisory Committee

The committee³² held its first meeting, which was open to the public, on February 13, 1997 in the Loy Henderson room of the State Department. During the meeting, Secretary of State Madeleine Albright and Undersecretary Tim Wirth made appearances in which they urged the panel to consider how the United States might use its voice to protect persecuted persons abroad. Albright stressed the importance of the committee's mandate and claimed that "religious freedom belongs squarely in any comprehensive discussions that we should be having and are having about American foreign policy."³³

Secretary Shattuck opened the meeting by talking about the various policy tools through which the United States monitors and combats religious persecution abroad now—quiet diplomacy, public condemnation, bilateral dialogue, human rights monitoring, and the annual country reports. After each of the 20 members of the committee made opening statements, the committee spent the morning discussing its primary focus: religious persecution and the treatment of religious minorities. The consensus that emerged from this session was that the committee needed to: (1) help enhance knowledge of the status of persecution in countries around the world by bringing together what is known and broadening the number of reliable contacts; (2) establish standards and priorities which help the United States to distinguish between different forms and places of persecution and develop proper responses; (3) develop specific recommendations on how the U.S. government can assist those who are being persecuted abroad. Shattuck

³¹ Coffey, Hearing on Religious Freedom in the Middle East, May 1, 1997.

³² See Appendix 5 for a list of committee members.

³³ Albright, Statement before Committee, 13 February 1997.

encouraged the religious persecution subcommittee, a subgroup of the twenty member committee, to focus their efforts on these three tasks.

The committee also examined how it might foster a greater degree of inter-religious cooperation to promote religious freedom, reconciliation and conflict resolution. The consensus that emerged from this session was that government should look for ways to organize its work in a way that leads to less conflict and greater reconciliation between different faith groups. In addition, Shattuck stressed the role of religious leaders in fostering a spirit of cooperation, saying that unless organizations and leaders are willing to take risks and lead by example, conflict resolution will not take place. A subcommittee on conflict resolution will meet to consider these matters in greater depth. The next meeting of the two year advisory commission is scheduled to take place in June, after both subcommittees have met to consider the matters addressed in the first meeting.

OPTIONS FOR U.S. ACTION

- A. RHETORIC: Make the issue of religious persecution abroad a priority in the conduct of country-specific and multilateral diplomacy by doing the following: creating a new White House Position of Special Advisor on Religious Persecution; improving State Department Human Rights Reports; bringing the issue up in bilateral relations and in international fora.**

Within this first option are a set of policy tools that share a common function: bringing greater attention to the problem of worldwide religious persecution. The United States could do this in a variety of ways at a number of different levels. The Clinton administration has already chosen, as one means of bringing the issue to light, to appoint an advisory committee to examine religious freedom abroad. Since the committee is composed of people from religious communities, its establishment is a primary means of educating both its individual members and

the communities that they represent, which amounts to millions of people. And some would argue that it is chiefly at this level (the level of particular churches or communities of faith) that efforts to bring both attention and relief to those persecuted on the basis of faith will be most successful.

Appoint a Special Advisor to the President

One Congressionally-supported policy initiative that was given a great deal of consideration by the administration before the announcement of the advisory committee was the formation of a Special Advisor to the President on Religious Persecution. This person would serve either on a volunteer basis, at the President's pleasure, using his or her own staff,³⁴ or be appointed by the President and given a staff at the White House with the Senate giving its advice and consent.³⁵ This person's role would be to advise the President concerning the whereabouts, extent, and nature of persecution and to suggest how a concern for persecuted persons might best be integrated into American foreign policy and diplomacy. Furthermore, this individual would serve as a liaison with the Secretary of Commerce, the Commissioner of the INS, and the Assistant Secretary of State for Human Rights to ensure that concern for the victims of religious persecution was adequately voiced. Since the President decided to appoint a two year committee instead of an advisor, it is unlikely that such a position will be created by the administration, at least not until the committee meets for the last time and makes its recommendations.

Improve Reporting on Human Rights Abuses

Another element of a policy approach focused on ending the silence about persecution would be to improve the coverage given to religious persecution in the State Department's annual

³⁴ This is the proposal that was strongly considered and nearly implemented at the White House in 1995.

³⁵ This is the arrangement provided for in draft language of the "Freedom From Religious Persecution Act of 1997."

Country Reports on Human Rights. This year, Undersecretary of State Timothy Wirth called the State Department's reports, "the premier document on the issue of human rights found anyplace around the globe."³⁶ It is true that these reports have become increasingly more thorough and comprehensive from year to year. And consistent with Assistant Secretary John Shattuck's statement that "truth and candor are the ultimate instruments of progress in the field of human rights," these reports have not hesitated to report on serious human rights abuses in countries with whom we have important economic or political relationships. For example, this year, the reports dedicated over 2000 words to describing abuses of religious freedom in China.

Still, on the issue of religious persecution, the reports could be improved vastly. Nina Shea wrote in In the Lion's Den, "the sections on Freedom of Religion were the weakest areas of coverage."³⁷ Perhaps the most glaring weakness is that the report does not adequately distinguish among various religious denominations, but instead generalizes the experience of the dominant religious minority group suffering persecution. These larger minority groups, by virtue of their size, usually have the most freedom among all the religious minorities in a particular region. In other instances, the report failed to address the role of society in persecuting religious minorities while a passive government did nothing to stop the terror. Weaknesses in these areas are especially important because of their practical application to other parts of U.S. policy, such as in the area of granting political asylum to refugees fleeing persecution. During the past year, immigration judges have relied on the State Department's report to deny political asylum to individuals fleeing religious persecution.³⁸ Thus, it is evident that better intelligence gathering, partly achieved through coordination with individuals representing or working with members of

³⁶ Timothy Wirth, Press Briefing, U.S. State Department, 30 January 1997.

³⁷ Shea, Lion's Den, p. 44.

³⁸ Ibid.

minority religious groups in these countries, will enable the U.S. government to understand the extent and nature of persecution in these countries and what policy responses are appropriate.

Step-up Efforts to Bring the Issue to Light

Finally, in conjunction with efforts to raise internal awareness of this issue through human rights reporting, the United States should also raise its voice externally when dealing with representatives of countries where we know for a fact that specific persons are being persecuted because of their religious beliefs. Secretary of State Albright did this on a recent trip to Germany, where she brought up the persecution of Scientologists that is taking place there. Senators Nunn and Lugar have both brought up specific cases of persecution when meeting or corresponding with representatives of other countries, and have found this approach successful. Unfortunately, however, it seems that only a few government officials are willing and able, by virtue of their knowledge, to bring the issue of persecution up. One way of increasing the level of understanding among government officials would be for the State Department's Bureau of Democracy, Human Rights, and Labor to brief staffers and officials prior to any meetings that take place with representatives of countries which are known religious persecutors. Such a process would also ensure that U.S. officials approach these foreign governments in a consistent, well-informed manner. Then, raising our voice, an option that appears to have few tradeoffs and little cost could have significant benefits.

Feasibility

(1) Special Advisor: Even though the White House was once poised and ready to appoint a Special Advisor to the President on Religious Persecution, it decided to form a State Department commission instead for reasons stated above. Consequently, legislation is the only way that such a position could be created now. Congress has created administrative positions in

the past, such as the United States Trade Representative, and the Senate's unanimous resolution did call for the appointment of a Special Advisor "as expeditiously as possible". Those who are strong advocates of the Special Advisor, including many religious leaders and some members of Congress, believe that the State Department committee will not accomplish anything substantive because of the diversity of interests represented on it and the lack of stature it has within the executive branch. Consequently, they feel that such a position must be created now via legislation, and that the position should be subject to Senate advice and consent.

Despite the misgivings some have about what may be a somewhat low level State Department committee, the formation of a Special Advisor may not be politically feasible. The fact that the White House has announced a committee on which some key religious leaders sit and that the committee has already met make it very unlikely that members of Congress will vote to create such a position. According to longtime staffer John Hanford, of Sen. Richard Lugar's office and Matt Lorin of the National Security Council, both the State Department and the White House would be adamantly opposed to such a development, as would most Democrats and many Republicans.

(2) Human Rights Reports: Improving State Department Reports is feasible both politically and practically. The State Department reports already contain a section on religious freedom in each country. To enhance these sections, it makes sense to utilize and make known reliable information already gathered by the practitioners of various religions in these countries when assessing the degree of religious freedom that exists. Furthermore, during the public portion of the advisory committee meeting, Secretary Shattuck expressed a desire to gather all information on religious persecution available. When individuals testified concerning persecution in a specific place, he responded that they should provide material to the State Department so that

they can include it in their report on the persecution of Christians, and later in the country reports. Thus, there seems to be a willingness on the part of the administration to look to religious groups to get information. The main challenge may simply be for the State Department to make the necessary connections with these groups in order to get information from them. However, care must be given to the manner in which such coordination takes place in order to guard against the perception that American religious groups working in foreign countries are intelligence operatives of the United States, a perception that already exists in some countries. To the extent that this perception exists, the feasibility of this option is sacrificed.

(3) Raising the Issue: The final element of this option, that of simply speaking out when carrying out country-specific and multilateral diplomacy, is definitely feasible. What this requires is something that could start tomorrow, and to some degree has started: when appropriate, the President could use the bully pulpit to condemn persecution; the Secretary of State could bring the matter up in bilateral meetings; the Ambassador to the United Nations could condemn such behavior in international fora; and, Senators and Congressmen could speak out on this issue when meeting with ambassadors, when going on fact finding missions, and when corresponding with foreign governments. Underlying this argument is the assumption that U.S. efforts in this area do not have to be consistently public or private. Rather than be committed to one or the other approach in the conduct of diplomacy, U.S. government should preserve the flexibility to use either approach, depending on the situation and country. U.S. Ambassador to the U.N. Bill Richardson recognized this in testimony before Congress. He said, "I will use both quiet diplomacy and public condemnation to combat religious intolerance."³⁹ Indeed, an aggressive but flexible approach is called for first, because countries are different, and second, because many of

these countries care a great deal about maintaining good relationships with Congress and the Executive Branch. Consequently, if informed U.S. government officials speak out, and there is little stopping them from doing so, the effect is potentially great.

Effectiveness

(1) Special Advisor: Because a special advisor to the President would be someone who works full time on this issue, as opposed to the committee which will meet sporadically, the appointment of such a person might enable the U.S. government to do a more effective job of tracking the behavior of countries who have engaged in persecution and responding appropriately. Being in close proximity to the President alone would ensure that persecuted religious minorities would have an advocate where it counts in American foreign policy, whereas under the present advisory committee system, whether or not they have such an advocate is in some doubt. Finally, the other special or "issue" advisors in the White House on drugs and AIDS have demonstrated that the mere formation of such a position acts to elevate the issue in the conduct of policy, be it foreign or domestic.

(2) Human Rights Reports: By significantly heightening the awareness of persecution in countries where such practices are egregious, and by making accounts of persecution more specific, improved State Department reports on human rights practices will serve as a tool with which those who deal with such countries or groups can address the issue more appropriately. Thus, though indirect, this will be an effective means by which the U.S. government can reduce persecution. Indeed, with the improvement of the State Department's reports, it would be unwise to give a Special Advisor a large reporting burden, which some have suggested. If such a person

³⁹ U.S. Congress, Senate, Foreign Relations Committee, Responses to Questions for the Record Submitted by Senator Ashcroft to UN Ambassador Designate Bill Richardson, 105th Cong., 1st sess., 3 February 1997, p. 1.

is appointed, he or she should help coordinate the religious aspects of the State Department's already enormous undertaking instead of trying to duplicate its efforts.

(3) Raising the Issue: In February, Secretary of State Albright spoke with Klaus Kinkle of Germany about the persecution of Scientologists. Their joint press conference confirmed that the issue was being examined, yet Kinkle's statement that the two countries will continue to work out the difficulties or present misunderstandings did not convey a strong commitment on the part of the government of Germany to see that such persecution ceases. Thus, one might argue that simply speaking out is not enough to see persecution reduced—to see a demonstrated effect overseas. Certainly, because it involves no apparent sticks or carrots, the option of speaking out does lack bite compared to the option of imposing economic sanctions. Yet, depending on the nature and volume of the voice the United States raises, the effect could still be significant.

The following are some examples where U.S. quiet diplomacy has been very effective: in 1993, 170 Senators and Congressmen signed a letter to Boris Yeltsin urging him to veto proposed legislation which would have outlawed all foreign religious activity, such as mission work, in Russia. This action was successful in stopping the law from being passed. In 1995, a particularly brutal campaign of persecution against Christians in Laos ceased partly as a result of a letter signed by 12 Senators. In 1995, a Christian convert who had been arrested for proselytizing to a Muslim was released because of pressure from Congress. In 1991, pressure from the White House freed a number of Christian converts who had been imprisoned and tortured in Egypt.⁴⁰ And although it had little effect, the U.S. government was influential in getting Prime Minister Benazir Bhutto of Pakistan to offer an amendment to Pakistan's blasphemy laws, which result in the deaths and imprisonment of so many. Congress did get two Christians released from prison

⁴⁰ Interview with Willy Inboden, former staffer for Senator Sam Nunn, Washington D.C., March 11, 1997.

but the amendment never went through due to the backlash created by Islamic extremists. Finally, dialogue with the Chinese has led to some success in getting pastors and others released. Of course, there are many more in prison in China and elsewhere, but for those released, U.S. diplomacy has been very effective.

History also demonstrates that the more specific we are when advocating for persecuted persons, the more effective we are in getting what we want. Thus, U.S. government officials should do everything possible to include names of persons or churches or groups when writing letters to or meeting with foreign representatives and when speaking out on behalf of those being persecuted. Since the evidence we have now is anecdotal, so must our advocacy be.

Effectiveness will also be enhanced if more people in positions of influence begin to realize just how widespread this problem is (some have compared it to the holocaust), causing a greater and more voluminous outcry, the effect of which must be ultimately to stem the tide of persecution.

Effect on U.S. Foreign Policy

In terms of U.S. foreign policy goals, none of these ways of bringing greater attention to the problem of religious persecution involve serious or costly tradeoffs. By creating a new executive position, by bettering human rights reports, or by making it an issue in diplomacy, the United States would not be endangering its vital national interests or security. In fact, it would be enhancing U.S. interests, since it is one of our chief interests that all nations realize the same freedoms that we enjoy under a just and democratic rule of law. Indeed, both the creation of a special advisor position and the improvement of human rights reports would act as a signal to others that human rights, particularly as they concern the right to believe and practice one's faith freely, are an important U.S. national and global interest, which we intend to be an advocate for. Furthermore, in the case of the advisor and the reports, the President and Secretary of State

would ensure that this advocacy is not carried out in a way that endangers other important national interests nor in such a way that jeopardizes national security.

Cost

(1) Special Advisor: According to NSC Staffer Matt Lorin, who was the original impetus behind the formation of such a position, appointing a Special Advisor on Religious Persecution would not cost the government anything because the nature of a special advisory role is that it is filled voluntarily by someone who already has a staff and other resources adequate to the task. Thus, he said that the cost of the advisory committee that was commissioned for a two year period will far outweigh what it would have cost for an advisor. This is assuming that the individual would serve in an advisory role only, would not be subject to Senate confirmation, and would not be responsible for publishing an independent annual report identifying and classifying persecuting countries. This is how the position was originally conceived. If, however, Congress created the position and made it subject to Senate advice and consent, giving it a large and important reporting responsibility, it is clear that the annual cost would be great. Furthermore, there is reason to believe that its responsibilities would overlap with the State Department's Bureau of Democracy, Labor, and Human Rights, which already publishes an extensive and expensive annual report covering religious and other forms of persecution.

(2) Human Rights Reports: The State Department's Human Rights reports are a very expensive undertaking. Last month, Secretary Albright commented, "They are the product of tens of thousands of hours of observation, data collection, analysis, and drafting, and ... one reason why the State Department will push hard to obtain full funding for the Presidents FY '98 budget request for international affairs."⁴¹ The added cost of improving coordination with

⁴¹ Albright, Press Briefing, January 30, 1997.

religious groups in order to report on their status in these countries would not be exorbitant, though. If the U.S. government put the burden on these groups to present the State Department with information in a consistent, reliable and usable form, if it simply invited them to be involved in the process and to provide information that they have already compiled, then it is reasonable to conclude that the reports would improve.

(3) Raising the Issue: The cost of raising one's voice informally when carrying out country-specific diplomacy is negligible monetarily. Indeed, the only cost is the time spent making the speeches, setting up the meetings, writing the letters. Certainly, if such an effort can save the lives of even a few people suffering overseas, then the time is well-spent and the effort well worth it. At such a low cost, our government must not continue to waste opportunities to speak out on this awful problem—in fact, in view of the costs that those facing the suffering must pay for their belief, the United States cannot afford to be silent.

B. HELP THE VICTIMS: Make the U.S. Immigration and Naturalization Service more responsive to victims of religious persecution.

The purpose of this policy option would be to directly help the victims of persecution by making procedural and/or substantive changes in immigration law. In its Statement of Conscience, the NAE claimed that the INS often treats the petitions of escapees from religious persecution in an indifferent or hostile manner. "It's like climbing up a cliff by your fingernails to win a religious persecution case," added Michael Horowitz of the Hudson Institute. The following excerpt from Abe Ghaffari's, the Executive Director of Iranian Christians International, testimony before Congress on February 15, 1996, provides evidence of the difficulty that some non-Muslims face when seeking asylum as refugees:

In July 1994, the U.S. Immigration and Naturalization Service adopted a policy requiring all refugee applicants be recognized as refugees by the United Nations High Commissioner for Refugees before being interviewed by the U.S. INS. Prior to that time, applicants were allowed to apply directly to the U.S. Consulate. At the same time, the U.N. High Commissioner for Refugees turned over all of its refugee processing and decision making authority to the Turkish government ... The resulting attitude and behavior of the Turkish police toward the Muslim converts or apostates is often hostile and abusive.⁴²

Present U.S. immigration policy dictates that in seeking durable solutions for refugees, the United States gives priority to the safe, voluntary return of refugees to their homelands. The U.N. High Commissioner for Refugees (UNHCR) also does this. If safe, voluntary repatriation is not feasible, settlement in countries of asylum within the region is sought as the next best alternative. When this is not possible for political, economic, or religious reasons, resettlement in a third country, like the United States is given consideration. According to the Refugee Act of 1980, the United States considers for refugee admission persons of special humanitarian concern who can "establish persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion."⁴³ The estimated world population of refugees is over 20 million and persons displaced within their own countries by war, famine and civil unrest may far exceed that number.

The United States works with other governments and international and private organizations to protect these individuals and see that their needs are met. In its report to Congress, the INS stated that over 80 percent of the world's refugees are women and children and it recognized "the special needs of these vulnerable groups."⁴⁴ It failed, however, to

⁴² U.S. Congress, House, Subcommittee on International Operations and Human Rights, Hearing on the Persecution of Christians, Worldwide, 104th Cong., 2nd sess., February 15, 1996.

⁴³ U.S. Department of Justice, U.S. Department of State, and U.S. Department of Health and Human Services, Report to the Congress on Proposed Refugee Admissions For Fiscal Year 1996, 104th Cong., 2nd sess., June 1995, p. 1.

⁴⁴ *Ibid.*, p. 2.

recognize the special needs of millions who suffer from religious persecution. Finally, with regard to refugees resettled in the United States, the U.S. Government aims to promote economic self-sufficiency as quickly as possible, limiting the need for public assistance and encouraging refugees to contribute to their new communities. Public assistance is available for these individuals in the form of cash, medical assistance, training programs, and employment support services. The United States government maintains a ceiling for the number of refugees that it allows to resettle in the United States. That number is 75,000 for FY 1998.

Procedural Changes to Immigration Policy

Two ways of reforming immigration practices towards persecuted believers have been suggested. The first is through legislation that affects the INS' procedures. The goal of such legislation would be to make the process by which the INS reviews and adjudicates religious persecution cases more transparent. For example, in the case of all persons denied asylum and/or withholding of deportation following claims of persecution based on reports of religious persecution, the INS could be required to provide the applicants with copies of the following: the reasons for the denial; the assessment sheet prepared by the INS asylum officer for the supervisory asylum officer; any materials used by the asylum officer to deny the claim.

Furthermore, If someone claiming religious persecution was denied asylum based in whole or in part on credibility grounds, the INS could be required to provide the applicants with: the statement by the applicant that was found not to be credible; a statement that the applicant was provided the opportunity to challenge the credibility concern; a brief summary of the applicant's response, if any; and an explanation of how the negative credibility finding relates to the religious persecution claim.

Finally, Congress could require the INS to include in its annual report to Congress facts detailing: the number of asylum applicants whose claims are based on religious persecution; the number of denials issued; the number of cases approved; the names of organizations and reports regarding religious persecution relied on in denial decision; a description of developments in the case of religiously based refugees resulting from persecutions in certain countries; a description of training for asylum and refugee officers on religious persecution, including speakers and materials used in such training.⁴⁵

Substantive Changes to Immigration Policy

Another policy approach to this problem would deal with the substance of U.S. policy toward refugees experiencing or in fear of religious persecution. This approach seeks to make U.S. immigration law more sensitive to the victims of persecution by either lowering the evidentiary standard that they must meet to be deemed refugees or by allowing them to apply directly to the U.S. Consulate for asylum rather than go through the UNHCR. In 1989, the Lautenberg Amendment to the Foreign Operations, Export Financing, and Related Programs Appropriations Act lowered the evidentiary standard required to qualify for refugee status for Jews and evangelical Christians from the former Soviet Union, certain Ukrainians, and certain categories of Indochinese. Under this statute, once a refugee applicant proved that he or she is a member of one of those groups, he or she has to demonstrate a 'credible basis for concern' about the possibility of persecution instead of the normal 'well founded' fear of persecution in order to gain admission to the United States.

The Lautenberg amendment has been renewed several times since 1989. Even though it was originally designed to help those living in the Soviet Union, where Communism no longer

exists, persecution still exists to the degree that legislators have felt it necessary to provide special relief to Jews and Christians there. With persecution even more life-threatening and rampant in other countries, however, many feel that the Lautenberg amendment should be extended to victims of persecution in countries like China, Sudan, Vietnam, and Pakistan, where State Department reports confirm persecution of a serious and pervasive nature.

Feasibility

According to Grover Joseph Rees, Staff Director for the House International Operations and Human Rights subcommittee and former immigration lawyer, legislation composed of the policy tools listed above should be successful in Congress. In the 104th Congress, he said, every piece of pro-refugee legislation passed, despite greater anti-immigrant sentiment in both Houses of Congress. Furthermore, because the changes will occur under existing resources, neither the procedural changes nor the substantive change will involve greater costs to the American taxpayer, making such changes all the more feasible. It seems, however, that the procedural changes which are designed to make the asylum process more transparent are more feasible than the policy options that deal with the substance of immigration policy (extending the Lautenberg amendment to more people). Especially considering the present anti-immigrant sentiment in Congress, it might be difficult to muster enough votes to extend the Lautenberg amendment to persecuted minorities in various countries, because there is a fear that doing so could necessitate a raise of the immigrant ceiling or opening of the "floodgates".

Effectiveness: Would Changing Immigration Law Help the Victims?

The effectiveness of this option should not be judged by whether or not it reduces persecution in countries where it occurs, but rather by whether it significantly betters the

⁴⁵ The content of the procedural options was provided by Grover Joseph Rees, Staff Director of the House

situations for victims of religious persecution. This means providing a way for them to get relief or gain admittance to another country where they will be free to practice their religion. Presently, because of the ceiling, there is a limit to the number of people the United States can help.

However, by focusing either the procedure or substance of refugee policy on victims of religious persecution, which in recent years has proven itself to be a greater problem than persecution on the basis of race, nationality, or political opinion, the United States might better tailor its policy to help those in greatest need of a sympathetic hand. Concerning the reduction of persecution itself, it can be argued that changing INS procedures or the substance of immigration law could act to embarrass certain nations, causing them to reduce the level of persecution.

Effect on U.S. Foreign Policy

There is a fear among some policy analysts that major substantive changes in favor of those who claim Christian or other persecution could create a "floodgates" problem. In fact, one congressional staffer said that those who favor this policy tool want America to be more religious again and see this as one way to accomplish this. Indeed, if we were to make emigration to the United States on the basis of persecution substantially more easy in certain countries like Pakistan, some fear that every Pakistani will claim to be a Christian⁴⁶ in order to receive permission to emigrate to the United States. Last year, Senator Alan Simpson argued that the Lautenberg Amendment "has distorted our refugee system and permitted the entry of frauds and criminals into the United States." He called the provision "an abuse of the refugee act" and concluded that "we cannot continue to make presumptive status of 'refugeeness' when we should be doing it on a

International Operations and Human Rights Subcommittee.

⁴⁶ Christians are the primary victims of religious persecution in Pakistan.

case-by-case basis," which is what the 1980 act provided for.⁴⁷ As Simpson's arguments attest, both the renewal and extension of the Lautenberg Amendment present the U.S. government with a dilemma that involves important tradeoffs. Since the number of refugees we can let in is limited to the ceiling that the Administration sets, any discussion of refugee policy relates only to the people who fill those limited spots. For every refugee that the United States accepts, numerous refugees are not accepted, and those not accepted bear the tradeoff costs.

Certainly, the United States ought to welcome those whose lives are at risk because of a credible fear of persecution, which is what existing law provides for. However, unwilling and unable to open our doors to everyone who wants in, we must distinguish between those who face a credible threat of persecution because of their faith and those who do not face such a threat, perhaps because in reality, they don't share that faith (although they may claim to).

Unfortunately, this is a very difficult distinction to make, making the adoption of substantive options potentially harmful to the United States' goal of helping those most in need of its help.

Cost

According to Grover Joseph Rees of the House International Operations and Human Rights Subcommittee, none of the above changes to immigration policy would involve a statistically significant change in the cost of funding INS operations. The substantive policy tools discussed would not affect costs because the ceiling would remain the same and the procedural policy tools would not affect costs because these changes only involve the manipulation or use of existing resources in such a way that brings greater attention to persecution and ensures greater transparency of the process. This last point is debatable, though, given that the biggest procedural changes involve a large increase in the reporting burden placed on the INS. Such an

⁴⁷ Senator Alan Simpson, Senate Floor Debate on Amendment No. 5088 to the Foreign Operations, Export

increase would probably necessitate greater funding for the INS, though the exact amount is unclear.

C. PUNISH THE PERPETRATORS: Use U.S. economic sanctions as a means of reducing the amount of religious persecution in countries where the practice is widespread.

The final policy tool by which the U.S. government can demonstrate its willingness to see religious persecution ended overseas involves using economic or trade sanctions. There exist a few different models as well as some new proposals which may serve as guides in determining how and whether the United States should apply this policy instrument. The first concerns annual international drug certification, a process that the U.S. government recently went through.

Annual Drug Certification

Under the Foreign Assistance Act of 1961, the President must identify and notify the Congress of those countries he has determined are major illicit drug producing or drug transit countries. Last December, the President identified 32 major illicit drug producing or drug transit countries and notified the Congress. On March 1 of each year, the President must decide whether to certify if each of the listed countries is cooperating fully with the United States, or has taken adequate steps on its own, in the fight against drugs to achieve the goals and objectives of the 1988 U.N. Drug Convention. In making these decisions, the President considers efforts taken by these states to stop the cultivation and export of, and reduce the demand for, illegal drugs. Furthermore, the President examines each country's performance in many specific areas like stemming illicit cultivation and production and extraditing drug traffickers.⁴⁸ The law also provides the President with the authority to certify that the vital national interests of the United States require that the country be certified—even if it does not meet the necessary criteria for

Financing, and Related Programs Appropriations Act, 1997, July 25, 1996.

certification. Many in Congress thought that he should have granted such a waiver to Mexico this year as a warning, instead of granting it full certification. The penalties for decertified countries are as follows: their governments lose eligibility for most forms of U.S. military and development assistance; they face a mandatory no vote by the U.S. government on loans in six multilateral development banks.

According the State Department's International Narcotics Control Strategy Report, 1996, "the certification process works. It has proved to be a remarkably effective diplomatic instrument for keeping all governments aware of the need to pull their weight in the international anti-drug effort. Most countries know that certification depends on their efforts to do so during the year." Furthermore, the report added that the certification process "holds [these countries] publicly responsible for their actions before international peers."⁴⁹

Despite the State Department's claims, some think that drug certification is a foolish policy because the process is inflexible, one-size-fits-all, unilateral, and requires the United States to make sweeping, public judgments of other countries' behavior. In a recent Washington Post article, Jessica Matthews of the Council on Foreign Relations wrote, "High-profile, annual certifications seriously distort relations between the United States and other countries by holding the whole relationship hostage to just one of its elements and often not the one we care about most. The judgments are widely resented and often ... backfire by triggering anti-American or extreme nationalist sentiment in place of a focus on the issue at hand."⁵⁰ Others criticize the drug certification process for being inconsistent. For example, many disagreed with President Clinton's decision to certify Mexico this year, even when it was abundantly clear that it did not meet the

⁴⁸ "Narcotics Control Fact Sheet," White House Press Release, February 28, 1997.

⁴⁹ U.S. Department of State, International Narcotics Control Strategy Report, 1996, www.state.gov.

necessary criteria. Although this may seem unfair, allowing the President to certify a country or grant a waiver in cases where he believes other interests override any particular interest is consistent with a more flexible, case-by-case approach to foreign policy and economic sanctions. Such a policy approach, though open to charges of inconsistency, would probably best serve us in our efforts to reduce religious persecution, as would the particular type of sanction used in drug certification. It appears that this sort of economic sanction (restricting assistance and financing from multilateral development banks), because it involves some discussion of the problem in a multilateral setting and a punishment that cannot easily be sidestepped or spilled over to the punishing nations is the best way of applying economic sanctions to a problem of this nature.

The Jackson-Vanik Amendment

Another model of using economic sanctions as a tool to achieve desired ends, particularly in the human rights arena, is the Jackson-Vanik amendment to the Trade Act of 1974.⁵¹ The Jackson-Vanik amendment prohibits the restoration of Most Favored Nation⁵² (MFN) trade status, prohibits access to U.S. government financial facilities to a non-market economy country, and disallows the conclusion of a commercial agreement with it, if that country: denies its citizens the right or opportunity to emigrate; imposes more than a nominal tax on emigration or on documents required for emigration; or imposes more than a nominal tax, fee, or any other charge on any citizen because of his desire to emigrate to the country of his choice.⁵³ Since the Jackson-

⁵⁰ Jessica Matthews, "Public Opinion in the Arena of Foreign Policy," The Washington Post, March 24, 1997, A19.

⁵¹ Trade Act of 1974, sec. 402.

⁵² Receiving MFN status from another nation means that the products it exports are subject to tariffs no greater than those imposed on imports from any other country. Exceptions to MFN include the Generalized System of Preferences (GSP) and free trade agreements (FTA), like NAFTA. I.M. Destler, American Trade Politics 3d ed. (Washington D.C.: Institute for International Economics, 1986), pp. 314-15.

⁵³ Wayne M. Morrison, Vladimir Pregeli, Kerry Dumbaugh, and Jeanne Grimmett. "Most Favored Nation Status and China: History, Current Law, Economic and Political Considerations, and Alternative Approaches," CRS Report for Congress, November 19, 1996, p. 8.

Vanik amendment uses MFN status as its policy tool, it is an import-based economic sanction. This is different than drug certification policy, which uses assistance and financing as its policy tools. Similar to drug certification policy, though, Title IV of the Jackson-Vanik law authorizes the President to waive the freedom of emigration requirements of that title, and to grant MFN status to a non-market economy country, if he determines that doing so will substantially promote the freedom-of-emigration objectives of that title. The Congress can then vote to override the waiver, but they need a 2/3 majority in each house to do so.

Since 1980, Presidents have used this waiver annually to renew MFN status to China and Congress has failed to override the waiver. Although the Jackson-Vanik amendment was originally designed to pressure the Soviet Union to allow the free emigration of Soviet Jews to Israel and other countries, it has become central to U.S.-China policy in that it ensures that China's MFN status, in view of its human rights abuses, comes up for a debate each year. Many think this is a fruitless debate and one that does not satisfy the original purpose of the legislation. Their reasons include the following: first, there is a big difference between emigration policy, which deals with the ability of individuals to emigrate, and human rights policy, which deals with how governments treat their own people. Second, many have come to believe that increasing the financial base of human rights violators through trade is one way of bringing about greater freedom in these countries. Finally, with the advent of World Trade Organization (WTO) status, which has MFN built into it and which China is being considered for, and regional free trade areas, like NAFTA, MFN status has become only one step better than sanctions. All of these points have led many to conclude that the Jackson-Vanik amendment should be changed or revoked. Regardless of what happens to Jackson-Vanik in the future, it provides a fairly good

model of how the U.S. government can link abuses in the human rights arena to economic sanctions, particularly those dealing with imports and tariff schedules.

Current Ideas: Three Economic Tools

There is one proposal for an economic sanctions regime dealing specifically with religious persecution already circulating on Capitol Hill. This proposal establishes the following conditions for the imposition of sanctions: first, the State Department or Special Advisor would issue an annual report by February 1st of each year. The report would include an assessment of whether religious persecution exists in each country and if so, whether that religious persecution satisfies one of two tests. If it met the first test (meaning that persecution of religious minorities in an ongoing, widespread and systematic fashion, where such persecution includes rape, mutilation, torture, killing or enslavement, and such persecution is conducted with the tacit approval or involvement of government officials), then the country would be deemed a class two violator. If it met the second test (meaning that persecution of a similar nature occurred but this time with the direct involvement and support of senior government officials), then the country would be deemed a class one violator.

(1) Financing/Assistance: Up to this point, discussion of sanctions has been focused on the withdrawal of non-humanitarian aid and exports, two prominent economic tools, the third being imports. The first economic tool includes U.S. assistance and involvement in multilateral development banks. Under this approach, U.S. representatives would be instructed to vote against any multilateral development bank loans that would be used in the offending country. Due to U.S. voting stock in multilateral development organizations, a U.S. veto of any development program effectively terminates the proposal. In addition, all U.S. assistance, except humanitarian aid, might be cut off. This would most likely include Export-Import bank financing as well as

financing from the Overseas Private Investment Corporation (OPIC), financing or sales under the Arms Export Control Act, and commodities other than food under the Agricultural Trade Development Assistance Act. Assistance relating to narcotics, disaster relief, food, medicine, and refugees would be excluded.

(2) Exports: Recent draft legislation would require the United States to ban either all exports or exports of a persecution-facilitating nature to offending countries, depending upon whether or not they are class one or class two violators. Persecution-facilitating products may include computer hardware, software and military technology, where there is a finding by the State Department or Special Advisor that such products are being used or are intended to be used solely for the purpose of carrying out acts of religious persecution.

(3) Imports: The final economic tool, and the one that has received the least attention, would affect offending countries' imports. For example, a bill dealing with this issue could incorporate an import tariff alteration for class one and two countries, for beneficiaries of both the Generalized System of Preferences (GSP) and annual MFN status.⁵⁴ In the case of countries like Pakistan who are recipients of GSP status, the United States might add to the list of requirements for such status a stipulation against the widespread persecution of religious minorities. In addition, the benefits of this trade status with the United States could be reduced incrementally based on the country's responsiveness to U.S. concerns about this issue. In the case of countries that the United States grants bilateral MFN status to, like China, tariff benefits of such status might also be incrementally reduced as opposed to entirely withdrawn. Both of these plans,

⁵⁴ There are three levels of tariffs that the United States has: category 2, general, and special. Category 2 are the 1930s levels and are generally very high. General are significantly lower and are afforded on an MFN basis (World Trade Organization (WTO) members, including the European Union, negotiate these levels on a multilateral basis; non-WTO members, including China, get permanent or annual MFN on bilaterally negotiated

however, would require an additional column in the U.S. tariff schedules—something between column 2 (which averages 5-20 percent) and general and special (which average 0-5 percent).

Finally, as with drug certification policy, the President would be authorized to issue a waiver stating that the national interests of the United States require that the country be excused from the sanctions.

Feasibility

Using economic sanctions against countries who are not already under some form of economic sanction would involve changing the substance of American foreign policy.

Traditionally, Congress has been slow, especially in the human rights arena, to pass legislation that seriously alters the substance of policy. Moreover, in the few instances that Congress has passed such legislation, the President has been quick to veto it. For example, “in the years since China conditionally regained its MFN status in trade with the United States, all legislative attempts at revoking it or subjecting it to additional conditions have been unsuccessful.”⁵⁵

Legislation is a very blunt instrument. Consequently, it would be difficult to get enough members to vote for trade sanctions which might, because of the bluntness of the instrument, seriously injure other vital U.S. interests in these countries.

(1) Financing/Assistance: If the scheme dictating the causes and content of economic sanctions could be fashioned in a similar way as they were for U.S. drug certification policy, this economic option may be feasible. The United States can make unilateral decisions concerning how it wants to give assistance to other countries. Consequently, in cases that are not closely connected to important U.S. strategic interests, the United States should be able to make choices

terms). Special tariff rates are the lowest and are afforded to our closest trading partners, including Canada and Mexico under NAFTA, and to the poorest countries on certain products under the GSP program.

⁵⁵ Ibid., p. 16.

concerning aid in such a way that affects these countries' behavior. Furthermore, the United States has an important role in multilateral development banks like the International Monetary Fund and the World Bank. We can and should use our vote in these organizations to emphasize values that are important to us. Indeed, it seems that if a system was adopted whereby the United States certified or decertified countries for certain economic benefits based on reliable information concerning widespread religious persecution, and then cast its votes and doled out aid accordingly, this may be a feasible and effective policy tool. Moreover, the degree to which sanctions are multilateral, a prospect that this option increases the chances of due to the use of our vote in international bodies, will further enhance the feasibility of this option.

(2) Exports: Setting unilateral export bans on persecution-facilitating products might put the United States in direct conflict with the General Agreements on Tariffs and Trade (GATT) Article XI, which prohibits export quotas and bans. There are exceptions in GATT for quotas, but they are for economic or national security-based purposes and would probably not be invoked in this case. Also, the general exceptions in Article XX, which have been used to defend sanitary, phytosanitary, and environmental regulations that violate a GATT obligation, would be a hard fit for export bans of persecution-facilitating products. New legislation, therefore, may not be feasible. Congress, however, has already passed legislation, the Export Administration Act (EAA), that gives the President authority to impose export bans on goods that are used to facilitate persecution, such as surveillance, detection, and crime control goods.⁵⁶ The EAA gives broad discretion to the President, though, to address both national security and national interest concerns. For example, while Congress has amended these export controls in the past to try to force the President to utilize them for foreign policy objectives, congressional pressure has never

⁵⁶ Export Administration Act of 1979, 50 U.S.C. App. 2401 et seq.

been an effective substitute for committed executive branch leadership. Only Presidents with a well-defined and consistent foreign policy have effectively used these controls to advance U.S. interests. Congressional pressure to use export controls where appropriate could shift public pressure to the administration and lead to improvement in the level of religious persecution worldwide. Surely, This sort of congressional involvement is feasible.

(3) Imports: If the United States were to adopt any of the import options addressed above, each of which involved a change in tariffs, it would likely have to make major changes to the Harmonized Tariff Schedule of the United States. This tariff schedule is already an enormous and complex document, detailing tariff rates for every good and every country. To make the changes that would be required, targeting specific countries and even adding a new column, would be a very large and expensive undertaking, for which the political will does not presently exist. Furthermore, in the wake of an annual debate over China's MFN status that always results in the same outcome, it is hard to imagine legislators making any changes that would seriously affect MFN, especially with respect to countries with whom we have important economic or strategic relationships. The import option might, however, be feasible in one respect. For offending countries who presently receive GSP status, which, unlike MFN, is unilaterally granted by the United States, it would be relatively easy for the United States to threaten a full or partial removal of such status if the countries did not reform their human rights practices.

Effectiveness

This option is designed to affect the behavior of other governments with respect to religious minorities in their states. If U.S. drug certification policy is any indication, than it is fair to assume that imposing economic sanctions on countries that the President believes are consistent violators of this human right would be effective. The adoption of a sanctions scheme,

thus, would hopefully reduce persecution in the countries designated a great deal. Past debates over whether or not to extend MFN to nations like China that are severe human rights abusers demonstrate that discussion of such "stick" options alone may have an effect in changing the behavior of governments towards oppressed persons.

(1) Financing/Assistance: This is the most well-used of the economic options, probably because it is also the least costly. Therefore, it is typically the least effective of the economic options. Nevertheless, past experience has shown that altering or abolishing U.S. assistance to countries we disapprove of or voting against loans to these countries can have a definite effect. And countries certainly care about whether or not they are on the lists which exclude them from the benefits of U.S. assistance. For example, there was a big response from the government of Colombia when it was announced that the United States had decertified it because of its failure to adequately improve its effort in the war against drugs. Colombia believed that it had improved significantly and that it should have been certified to receive U.S. assistance and multilateral development loans.

Two factors could mitigate the effects of this economic sanction, though. The first is the fact that many of the countries who are already the recipients of this type of economic sanction would be the recipients of sanctions based on their treatment of religious minorities. This would amount to a second death sentence and would thus involve little substantive effect. Secondly, the United States cannot always effectively block loans from multilateral development banks. Only if the project is one that the United States is contributing a significant amount of funds to, can we be sure that we have veto power over it. Nevertheless, even in cases where we cannot veto a proposal, our vote can be used to send a clear message of our interests in a multilateral setting.

(2) Exports: Given the global nature of today's economy, the effect of any unilateral sanction against a country like China is bound to be mitigated by the fact that China, like other countries, has many other sources to turn to who have both the goods that they want and the willingness to tap into their huge, emerging market. This fact caused a recent study on unilateral economic sanctions by the National Association of Manufacturers to conclude that U.S. sanctions outside of a multilateral framework have led only to lost American exports and jobs, with little or no impact on the targeted government's behavior.⁵⁷ Between 1993 and 1996, the United States slapped unilateral economic sanctions on 34 countries (13 for human rights), representing 42% of the world's population and 19% of the world's export markets. The problem is that such "light switch diplomacy," the idea that foreign trade is a tactical instrument of foreign policy and that commercial relationships can be turned on and off like a light, has major shortcomings and tradeoffs and, too often, minor effect.⁵⁸ Consequently, the National Association of Manufacturer's recommendation to consider and seek a multilateral approach with like-minded allies before applying economic sanctions seems wise.

(3) Imports: To the extent that countries who export their goods to the United States have competitors in other countries who export similar goods to the United States, an import tariff alteration may be an effective policy tool. Otherwise, U.S. importers would simply have to pay more for the goods they import, a cost that would be passed on to American consumers. But if, as a result of the higher tariff (e.g. on Nike shoes from China), U.S. importers looked to other countries to provide the same good (such as Korea, which also make Nikes), then the country hit

⁵⁷ A Catalog of New U.S. Unilateral Economic Sanctions for Foreign Policy Purposes, 1993-96, National Association of Manufacturers, March 1997, p. 8.

⁵⁸ *Ibid.*, p. 2.

by higher tariffs would be hurt by the tariff alteration and would hopefully alter its behavior as a result.

Effect on U.S. Foreign Policy

Each of these three economic options could potentially alter the substance of U.S. policy towards a country or region, putting the United States in a position where it would have to levy some form of sanctions against countries with whom it has important strategic or economic relationships: China, Egypt, and Saudi Arabia. Thus, the imposition of sanctions could involve costly tradeoffs in terms of U.S. national security. For example, the U.S. relationship to China has important implications for the behavior of North Korea. If we were to levy sanctions against China, they may retaliate by giving their support to North Korea in what could become a major conflagration. In addition, reputed arms sales from China to Iran and Pakistan could spiral out of control if the United States were to adopt what would be perceived as harsh economic sanctions. Finally, the imposition of economic sanctions could strengthen hard-liners in China who are opposed to economic and political reforms and those in favor of taking a stronger military posture toward the United States. And this could result in greater restrictions on personal, political, and economic freedoms.

The record shows that, with the exception of religious freedom in 1996, the U.S. policy of constructive engagement is moving countries like China slowly towards free trade and greater respect for human rights and this should certainly continue under Madeleine Albright. Religious freedom, sadly, did not improve there and that, of course, is the goal of this analysis. But, we would be foolish not to recognize the substantial tradeoffs that exist with China alone, not to mention other countries, if we were to impose economic sanctions. This is not to say that the United States should stand idly by while China carries out its persecution. In fact, showing

intense concern for persecuted persons should be a priority in U.S. efforts to engage China. But these efforts should be couched in a broader policy which sees the achievement of general political and economic progress as additional means by which to meet human rights goals.

The Middle East is another area where the use of blunt policy instruments could involve costly tradeoffs. The peace process there is at a very important, yet tenuous, juncture. The situation being as unstable as it is, it does not seem wise for the United States to take substantive action which would affect and anger key Arab allies in the region like Saudi Arabia, Egypt, and Israel, where religious persecution also occurs. For instance, if the United States were to impose economic sanctions against Egypt, there might be serious repercussions in terms of our relationship with Israel and the Middle East peace process. Presently, Egypt receives both military and economic assistance from the United States because of the Camp David Accords and its relationship with Israel. To risk an important strategic relationship with Egypt because of its internal policy would be shortsighted of our overall interests in the Persian gulf.

Cost

It is impossible to know exactly what the costs of economic sanctions would be to the United States, but it is clear that they would be great.

(1) Financing/Assistance: An examination of laws that apply this type of economic sanction against countries who are on the terrorist list (currently 7 countries)⁵⁹ or who are decertified for drug-related offenses (currently 6 countries)⁶⁰ demonstrates that the United States is not applying sanctions against countries where the imposition of such sanctions involves large economic costs. Only one of these 13 countries are on a list of the top 50 purchasers of U.S. exports in 1995, Columbia (which is 25th), which means the potential effects of any retaliatory

⁵⁹ The Terrorist list includes Cuba, Iraq, Iran, Libya, North Korea, Sudan, and Syria.

trade measures against the United States are not great. Consequently, it seems that the United States is more willing to impose economic sanctions against countries when both the cost of doing so and the means by which we do so are negligible. Indeed, the cost of reducing or eliminating U.S. assistance or disapproving loans is negligible. In fact, it can be argued that this economic sanction, because it reduces foreign aid, actually saves the United States money. The cost would not be negligible if the United States were to impose export or import sanctions on persecutors of religious minorities. For example, look at China, which would most likely be affected by sanctions.

(2) Exports: In 1995, U.S. exports to China totaled \$11.7 billion, making it the 13th largest market for U.S. exports. Add to this Hong Kong, which will soon be part of China, where our exports totaled \$14.2 billion.⁶¹ The Commerce Department estimates that each \$1 billion in U.S. exports roughly supports 15,000 U.S. jobs. Thus, U.S. exports to these two nations alone, not to mention exports to other persecutors like Egypt, Saudi Arabia, and Indonesia, supported almost 400,000 U.S. jobs. Although cutting off exports to China would not have a large effect on the U.S. economy overall (U.S. exports to China accounted for only 0.17% of U.S. gross domestic product), it would cause certain sectors such as fertilizers, aircraft, cereals, textile fibers, and telecommunications equipment to be hard hit by likely Chinese retaliation.⁶²

The long term effects of such retaliation could also be deleterious. China has been one of the fastest growing markets for U.S. exporters and will likely prove to be a significant market in the future. From 1990 to 1995, U.S. exports to China grew by over 144%. Furthermore, China plans to spend hundreds of billions of dollars in the next twenty years on infrastructure

⁶⁰ Decertified nations include Afghanistan, Burma, Colombia, Iran, Nigeria, and Syria.

⁶¹ Morrison et al. "Most Favored Nation Status and China," pp. 20-21.

⁶² Ibid.

development, including major upgrades to its aircraft fleet (a market the U.S. has an 80% share of). Finally, imposing economic sanctions on China could cause China to denounce agreements that it has made with the United States regarding market access and the protection of U.S. intellectual property rights (IPR). Such a denouncement could lead to massive Chinese production and exporting of pirated LDs, CDs, and CD-ROMs.⁶³

(3) Imports: Targeting imports could lead to many of the same retaliatory measures, including IPR violations and a reciprocal increase in tariff rates on U.S. goods. Furthermore, an increase in tariffs on goods coming into the United States via a change in trade status, would immediately affect U.S. importers, not foreign exporters. This is especially true when the good being imported is only available from a single source. In that case, the importer pays a higher tax for the good and then passes this cost onto the American consumer. Thus, it is evident that economic sanctions that include a change in import schedules or revocation of MFN could potentially involve large economic costs to the United States.

RECOMMENDATIONS AND CONCLUSION

The background section of this report yielded three conclusions: first, the persecution of religious minorities abroad is a serious problem that affects the lives of millions each year; second, our understanding of the exact extent and nature of this problem is lacking; and finally, this problem needs to be given a greater priority not only in U.S. human rights policy, but also in American foreign policy as a whole. The question that these conclusions beg is how? How should the United States use its significant power and prestige to ensure that more governments throughout the world respect what we know and believe to be a sacred human right, the freedom of religion?

⁶³ Ibid., pp. 21-22.

Aryeh Neier, writing in the January/February 1997 issue of Foreign Policy has one view of how the United States should do this. In an article entitled "The New Double Standard," Neier argued that "the promotion of human rights should not be weighed against competing concerns [but] should proceed wherever gross abuses are practiced—regardless of other U.S. interests in such countries."⁶⁴ Neier's reasons for such an argument include his belief that "so long as promoting human rights is seen as being in competition with other interests, the administration seems ready to argue that the latter are more compelling."⁶⁵ Consequently, he believes the United States should end the "double standard" by viewing its human rights agenda independently of other interests and demonstrating a willingness to pay the high costs associated with promoting human rights in an uncompromising fashion. "Our willingness to bear the cost is a measure of our national commitment to human rights," he concluded.⁶⁶

Neier's viewpoint, though attractive in its purity, is untenable because it tries to disassociate one foreign policy issue from the whole of American policy in a way that suggests an absence of tradeoffs or costs. Yes, the United States does appear to have somewhat of a double standard, but this is a necessary double standard. Even though America's values are constant, the United States has different interests in different countries necessitating something other than the one-size-fits-all approach that Neier advocates. Jeffrey Garten, former Undersecretary of Commerce for International Trade, recognized this in the same issue of Foreign Policy.

Garten charged that Neier's implication of a need for constant public condemnation by Washington officials as well as more threats and the use of economic sanctions constitutes "a self-defeating policy." Such actions, Garten believes, "would create a backlash in the very countries

⁶⁴ Aryeh Neier, "The New Double Standard," Foreign Policy, January/February 1997, p. 100.

⁶⁵ *Ibid.*, p. 99.

⁶⁶ *Ibid.*, p. 101.

whose policies the United States is trying to change, and it would undermine the long-term progress that Americans want. U.S. behavior of this kind will not work vis-a-vis big emerging markets, which are increasingly powerful, nationalistic, and resistant to unilateral American pressure.”⁶⁷ This uncomfortable fact yields the following conclusions about how to incorporate advocacy for victims of religious persecution into U.S. human rights policy and overall U.S. foreign policy.

First, U.S. policy concerning religious persecution abroad should form an integral part of U.S. foreign policy, not be independent of it. In a world of great change, America needs flexibility in deciding how to use policy tools to achieve desired ends. Consequently, Congress should take great care before enacting mandates which bind the hands of the President and U.S. diplomats with trade sanctions. When it does this, Congress risks impairment of U.S. influence abroad and sacrifices the tool of diplomacy. And the United States should not give up this tool, for, as this analysis showed, it can work rather well.

Second, our main criteria for cracking down on religious persecution abroad should not be what makes us feel good, but what works. This translates into pressing for improvements in the environment faced by religious minorities “not with megaphones but with behind the scenes diplomacy, so that foreign governments are not backed into a corner and forced to oppose what the United States is trying to do.”⁶⁸ Megaphones will sometimes be appropriate, but the experience of Senators Lugar and Nunn demonstrate that quiet diplomacy is usually the best way of achieving progress on this issue.

Third, while we should not shrink from making American views about religious persecution known to other governments, the United States should be very careful when

⁶⁷ Jeffrey Garten, “Comment: The Need for Pragmatism,” Foreign Policy, January/February 1997, p. 104.

considering the link between human rights and trade.⁶⁹ The United States must recognize that expanding commercial interactions with big emerging markets and other countries may promote the cause, while cutting off commercial transactions, if done unilaterally, will most likely not promote it. Consequently, in cases where high-profile protests or trade sanctions are called for, they should be multilateral efforts. This is a big challenge, especially considering the fact that our European allies do not traditionally engage in U.S. style breast-beating. Perhaps our biggest goal should be to get the big emerging markets themselves to help participate first, in the definition of the problem, and then, in the solution.⁷⁰

The link between human rights and foreign policy will become increasingly more important in the future. With the emergence of several new countries in global affairs, many of which fall far short of U.S. human rights standards, it is important that the United States carefully consider its human rights strategy, particularly in this area of religious persecution. This analysis has demonstrated that policy, be it human rights or otherwise, cannot be carried out in a vacuum. There are always tradeoffs or costs, and in some cases the tradeoffs greatly affect competing national interests. The criteria used in this paper was a reflection of this fact.

An analysis of the big picture has made the proper policy initiatives more clear. As Table 2 demonstrates, there are elements of each broad option that policy-makers should consider adopting. None of the options which meet the criteria are mutually exclusive meaning that policy-makers could make all of them a part of an effort to reduce religious persecution abroad. Yet, it is clear that some of these options are stronger than others. First, the weaker. The procedural elements of Option B, that of making INS procedures more sensitive to the victims of

⁶⁸ Ibid., p. 105.

⁶⁹ Ibid.

⁷⁰ Ibid., p. 106.

persecution, do not involve substantial tradeoffs and seem warranted by our understanding of the growing scourge of religious persecution. Furthermore, it seems that dealing with the issue procedurally, ensuring that the process of adjudicating claims is done fairly and with the greatest amount of information possible, is a fair way of dealing with the issue and one that will guard against the floodgates problem which would likely be the result of any substantive change. However, Congress should be careful not to overburden the INS with extreme reporting requirements or unnecessary casework.

Table 2: Matrix of Options Weighed Against Criteria

(+) meets criteria, (-) fails to meet criteria, (+/-) neutral on criteria

<i>Options</i>	<i>Feasibility</i>	<i>Effectiveness</i>	<i>Effect on F.P.</i>	<i>Cost</i>	<i>Overall</i>
Option A: Rhetoric					
Special Advisor	-	+	+/-	+/-	-
Better Human Rights Reports	+	+	+/-	+/-	+
Raise Issue in Diplomacy	+	+	+	+	+
Option B: Help the Victims					
Substantive Changes to INS	-	+	-	+/-	-
Procedural Changes to INS	+	+	+/-	+/-	+
Option C: Punish Perpetrators					
Aid/Assistance	+	+	+/-	+/-	+
Exports	+/-	+	-	-	-
Imports	-	+	-	-	-

The next strongest option as weighed against this criteria involves the case-by-case use of economic sanctions against the perpetrators of religious persecution. Due to the high cost of trade sanctions and their effect on U.S. foreign policy, the recommended means of sanctions does not involve trade, but rather a restriction of aid and multilateral assistance to these countries. Past experience with this policy tool demonstrates that, depending on the country, this can be an effective means of seeking reform on issues that we believe are important.

Finally, the United States should strengthen its efforts to raise awareness of this problem through both reporting and rhetoric. Instead of mandating the appointment of a Special Advisor with a large reporting responsibility, Congress should help the administration improve the present human rights infrastructure and its primary tool, the annual Country Reports on Human Rights. Coupled with this intelligence-gathering effort should be a U.S. commitment to bringing the problem up in the conduct of country-specific and multilateral diplomacy. America must use its voice, in both quiet and loud ways, to end the silence concerning religious persecution. The President, the Secretary of State, Senators, Congressmen, Ambassadors, foreign service officers, and businessmen should not waste opportunities to speak out on behalf of persecuted individuals when carrying out bilateral relations with countries that are known persecutors of religious minorities, when working in multilateral settings, and when speaking with members of the press or with religious leaders. If these individuals, including Senator Ashcroft, will make a concerted effort to speak out, then the United States should begin to see improvement not only in the level of persecution abroad, but also in the amount of information available concerning persecution abroad. And when such information becomes more readily available, the United States can then begin to better assess whether and where it needs to open its doors wider to victims of persecution or, along with other countries, wield the big stick of trade sanctions.

APPENDIX 1:

*Statement of Conscience of the
National Association of Evangelicals*

APPENDIX 2:

*Examples of Countries Where Persecution
of Religious Minorities is Systematic*

Sudan

The UN Human Rights Commission and numerous independent human rights investigators have all acknowledged that Christians and animists continue to be targets of a brutal government-sponsored campaign of "forced Islamization." For example, the UN Special Rapporteur on Sudan Gaspar Biro reported that in May 1995 soldiers in uniform summarily executed 12 men, women, and children for refusing to convert to Islam. The homes of non-Muslims are burned and looted, and their children are abducted and sent to Islamic camps. Christian Solidarity International, a prominent Human Rights organization with a focus on Sudan, estimates that more than 25,000 children from the Nuba Mountains region alone have been abducted and sold into slavery. The militant government's scorched-earth and forced-starvation tactics as it prosecutes its religious war in the southern, Christian part of the country has resulted in the deaths of over 1.3 million people, and the displacement of more than three million mostly Christian and non-Muslim people. The law prohibits any proselytizing of Muslims and in the north, where over 500,000 Coptic Christians live, no new churches have been built since the early 1970s.

China

In China's Zhejiang province, police destroyed at least 15,000 religious sights in the first half of 1996 alone, according to a report in the Far Eastern Economic Review. The mechanism for Beijing's control of religion is the Religious Affairs Bureau, controlled by the Department for a United Front, which is in turn controlled by the Communist party. State religious policy, as explained by Jiang Zemin, is "to actively guide religion so that it can be adapted to socialist society." Estimates show that anywhere from 25 to 50 million Catholics and Christians in China violate government edicts each week by worshipping in underground "house churches," and, as a result, are subject to fines, arrest, and in some cases, imprisonment. According to American Catholics and Christians working in China, 1996 has been "the most repressive period" for Catholics and Protestants since the cultural revolution of the 1960s. Communist leaders in China believe that Christianity is the "principal threat" to China's political stability.

Saudi Arabia

Saudi Arabia is an ally of the United States, but the State Department Human Rights reports acknowledged this year that for Saudis, "freedom of religion does not exist." The Mutawa religion police raid houses, confiscate Bibles, and arrest people for practicing any faith other than Islam. The State Department appeases such religious intolerance to the point of tasking its officers in Saudi Arabia with keeping American Catholics from attending mass. Conversion to anything other than Islam is seen as apostasy, a crime punishable by death, and as one might expect, the government does not allow any places of worship to be built other than mosques. According to Amnesty International, the persecution of Christians has "increased dramatically" in Saudi Arabia since the Gulf War.

Egypt

In rural areas of Egypt, Muslim thugs force Coptic Christian farmers to pay protection money. Those who don't have been shot and killed. Furthermore, Christian girls have been raped by Muslim men, pressured to marry the rapist, and then to convert to Islam. The Mubarak government does not actively encourage such behavior, however, it does nothing to stop it. The government of Egypt could be held responsible for what happens when Muslims convert to Christianity, though, which includes arrest, torture, social ostracism, and, in some cases, death. Like Saudi Arabia and Sudan, Islam has been declared the state religion and *Sharia* (Islamic law) has been the primary source of legislation in Egypt, barring the construction or repair of Christian churches.

Vietnam

Despite Vietnam's much-publicized economic reforms and political overtures to the West, communist authorities continue to claim control over thought and belief in Vietnam. Since 1995, the government has embarked on a flurry of activity to intimidate and suppress independent worship. The most brutal tactics appear to be used in remote areas outside of the spotlight of international human rights monitors. Local officials have been deeply concerned about the rapid growth of evangelical Christianity among many ethnic tribal groups located in these remote areas. Authorities fearing that belief in Christianity, a "western religion," undermines their absolute political and ideological control, have clamped down hard on this growing religion. Reverend Tran Qui Thien, a Catholic priest who spent 13 years in a communist "re-education" camp because of his religious activity said, "No pen will ever be adequate to describe all the acts of terrorism, repression, suppression, murder and imprisonment aimed at the religious leaders and their followers, purely on religious groups, in Vietnam."¹

Others

According to In the Lion's Den by Nina Shea, in addition to the countries mentioned, 7 other countries are known for engaging in systematic persecution of religious minorities: Pakistan, Laos, North Korea, Cuba, Nigeria and Uzbekistan.

¹ All of the information included in this Appendix was taken from Nina Shea, In the Lion's Den, (Bristol House, Anderson, Indiana, 1996)

APPENDIX 3:

International Laws Which Protect Religious Liberty

a. The UN Universal Declaration of Human Rights.

- Article 18. Everyone has the right to freedom of thought, conscience, and religion: this right includes freedom to change his religion or belief and freedom either alone or in community with others and in public or private to manifest his religion or belief in teaching, practice, worship, or observance.

b. The International Covenant on Civil and Political Rights

- Article 18. (1) Everyone shall have the right to freedom of thought, conscience, and religion. This right shall include freedom to have or to adopt a religion or belief of his own choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice, and teaching. (2) No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice. (3) Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. (4) The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

c. European Convention on Human Rights: Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms

- Article 9. (1) Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance. (2) Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health, or morals, or for the protection of the rights and freedoms of others

d. African Charter on Human Rights and the People's Rights

- Article 8. Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.

e. American Declaration of the Rights and Duties of Man

- Article III. Every person has the right freely to profess a religious faith, and to manifest and practice it both in public and in private.

f. Declaration of the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, proclaimed by General Assembly resolution, 25 November 1981. (See appendix for entire)

- Article 2. (1) No one shall be subject to discrimination by any State, institution group of persons, or person on the grounds of religion or other belief.

- Article 3. Discrimination between human beings on the grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter of the United Nations, and shall be condemned as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and enunciated in detail in the International Covenants on Human Rights, and as an obstacle to friendly and peaceful relations between nations.
- Article 4 (1) All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life. (2) All states shall make efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.
- Article 5 (1) The parents or, as the case may be, the legal guardians of the child have the right to organize the life within the family in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up.
- Article 6. ... the right to freedom of thought, conscience, religion, or belief shall include, inter alia, the freedom (a) to worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes.

APPENDIX 5:

Advisory Committee on Religious Freedom Abroad

Advisory Committee on Religious Freedom Abroad

Chairman

Assistant Secretary John Shattuck, Bureau of Democracy, Human Rights, and Labor, U.S.
Department of State

Members

Dr. Don Argue, National Association of Evangelicals
Rev. Joan Brown Campbell, National Council of the Churches of Christ
Dr. Diana Eck, Harvard University
Dr. Wilma Ellis, Continental Board of Councilors, Baha'is of America
Rabbi Irving Greenberg, National Jewish Center for Learning and Leadership
Rev. James B. Henry, Pastor, First Baptist Church, Orlando, Florida
Bishop Frederick Calhoun James, African Methodist Episcopal Group
Rev. Leonid Kishkovsky, Orthodox Church of America
Rev. Samuel Billy Kyles, Memorial Baptist Church, Memphis, Tennessee
Dr. Deborah Lipstadt, Emory University
Dr. David Little, U.S. Institute of Peace
Dr. Laila Al-Marayati, Muslim Women's League
Rev. Theodore E. McCarrick, Archbishop of Newark
Imam Wallace Deen Mohammed, Society of Muslim Americans
Dr. Russell Marion Nelson, The Church of Jesus Christ of Latter-Day Saints
Rev. Ricardo Ramirez, Bishop of Las Cruces, New Mexico
Dr. Barnett Richard Rubin, Council on Foreign Relations
Ms. Nina Shea, Puebla Project of Freedom House
Dr. Elliot Sperling, Indiana University
His Eminence Archbishop Spyridon of America, Greek Orthodox Archdiocese of America

APPENDIX 4:

Senate Concurrent Resolution 71

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